

### **REMARKS**

The above-identified application has been reviewed in view of the Office Action dated October 29, 2007. Claims 11-15 and 22-29 are currently pending, claims 1-10 and 16-21 having been previously cancelled. By the present Amendment, the applicant has amended claims 11 and 25, and added new claims 28-29 for consideration. The applicant respectfully submits that these amendments and new claims are fully supported by the specification, introduce no new matter, and are allowable over the references of record. In view of the following, the applicant respectfully requests reconsideration and allowance of the pending claims.

In the Office Action, claims 11-15 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 11 of co-pending Application No. 10/729,634, over claims 1 and 7 of co-pending Application No. 10/743,192, and over claims 15-21 of co-pending Application No. 10/729,768. In response to each of these provisional double-patenting rejections, the applicant will file a suitable terminal disclaimer upon indication that claims 11-15 are otherwise allowable.

Claim 11 was objected to for the inclusion of a typographical error. By the present Amendment, claim 11 has been amended to rectify the error. Accordingly, Applicant respectfully requests withdrawal of the objections to claim 11.

Claims 22, 24, 26, and 27 were objected to in the Office Action and it was asserted that these claims included informalities. Specifically, the Office Action asserted that the phrase "the plurality of bladders is" was incorrect. The applicant respectfully disagrees. The word "plurality" is the subject and is a singular noun requiring a singular verb even though the plural noun "bladders" is present and is used to describe what is included in the singular noun "plurality." Therefore, the applicant respectfully requests that the objection to claims 22, 24, 26,

and 27 be withdrawn.

Claims 11-15 and 22-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,148,307 to Utsugi (hereinafter “Utsugi”) in view of U.S. Patent No. 4,295,464 to Shihata (hereinafter “Shihata”). The applicant respectfully submits, however, that Utsugi in view of Shihata fails to suggest each and every element of the retractors recited in amended independent claims 11 and 25.

As amended, independent claim 11 recites a retractor including, *inter alia*, a shaft including at least one flexible portion and “a plurality of inflatable bladders partially circumscribing an outer surface of the shaft, at least one of the inflatable bladders being disposed adjacent to the at least one flexible portion of the shaft and being configured to cause at least a section of the at least one flexible portion of the shaft to become more rigid when the at least one inflatable bladder is inflated.”

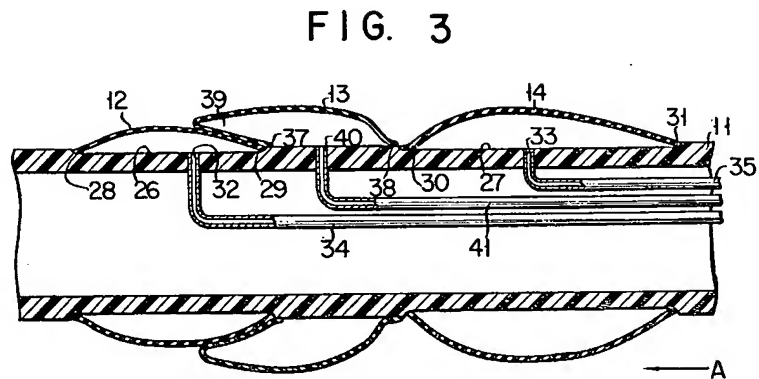
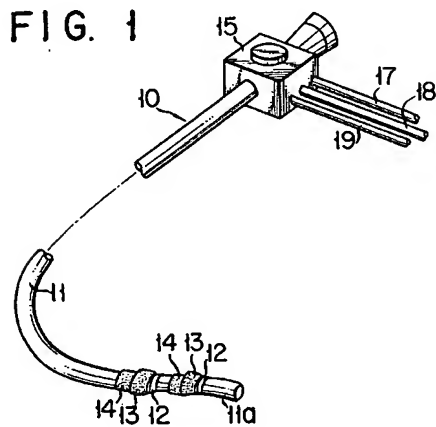
As amended, independent claim 25 recites, *inter alia*, a shaft including at least one flexible portion and “a plurality of inflatable bladders partially circumscribing an outer surface of the shaft” wherein at least one of the inflatable bladders is “disposed about the at least one flexible portion such that a section of the at least one flexible portion becomes more rigid upon inflation of the at least one inflatable bladder.”

Utsugi relates to a medical instrument 10 including a cuff assembly fixed to a flexible sheath 11. (*See* col. 2, lines 29-30). The cuff assembly is constituted by a drive cuff 12, a propellant cuff 13, and a return cuff 14 which each receive a fluid introduced through the flexible sheath 11. (*See id.* at lines 30-39).

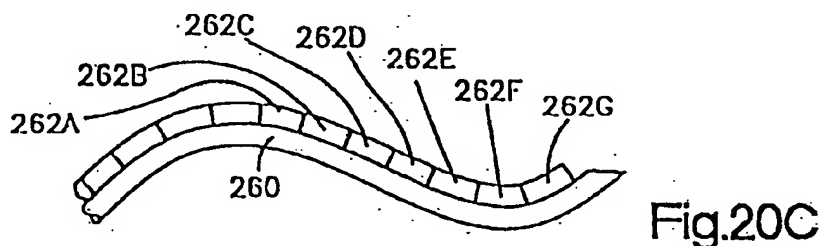
In the Office Action, the flexible sheath 11 and the cuffs 12, 13, 14 were respectively characterized as the “shaft” and the “plurality of inflatable bladders” recited in each of

independent claims 11 and 25, and it was asserted that the “inflatable bladders” 12, 13, 14 are configured to cause at least a section of the “shaft” 11 to become more rigid when the “inflatable bladders” 12, 13, 14 are filled with fluid. It was acknowledged in the Office Action that Utsugi fails to disclose a cannula having a passage which receives the shaft, and Shihata was relied upon for the disclosure of that concept.

As seen below in FIGS. 1 and 3, the “inflatable bladders” 12, 13, 14 of Utsugi are disposed completely around the “shaft” 11, thereby defining a toroidal configuration.



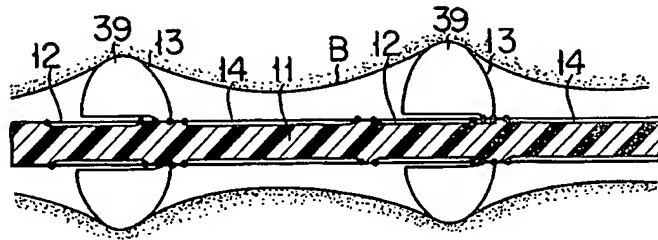
In contrast, independent claims 11 and 25 each recite “a plurality of inflatable bladders partially circumscribing an outer surface of the shaft” as seen below in FIG. 20C of the present application.



In addition, Utsugi discloses that the “inflatable bladders” 12, 13, 14 serve to separate the “shaft” 11 from the wall of the body cavity into which instrument 10 is inserted such that no

portion of the “shaft” 11 is in contact therewith, as seen below in FIG. 4B. (See col. 1, lines 30-36; see col. 4, lines 35-39).

FIG. 4(b)



Utsugi fails to provide any disclosure or suggestion that the “inflatable bladders” 12, 13, 14 are “configured to cause at least a section of the at least one flexible portion of the shaft to become more rigid when the at least one inflatable bladder is inflated” as recited in amended independent claim 11, or that the “inflatable bladders” 12, 13, 14 are “disposed about the at least one flexible portion such that a section of the at least one flexible portion becomes more rigid upon inflation of the at least one inflatable bladder” as recited in amended independent claim 25. (Emphasis added).

Were Utsugi to include “inflatable bladders partially circumscribing an outer surface” of the “shaft” 11, as recited in amended independent claims 11 and 25, the portion of the “shaft” 11 exposed from the “inflatable bladders” 12, 13, 14 would be biased into contact with the body cavity wall upon inflation, thereby contradicting the intended purpose of the “inflatable bladders” 12, 13, 14.

Accordingly, the applicant respectfully submits that Utsugi fails to disclose, or suggest, a retractor including, *inter alia*, a shaft having at least one flexible portion and “a plurality of inflatable bladders partially circumscribing an outer surface of the shaft, at least one of the inflatable bladders being disposed adjacent to the at least one flexible portion of the shaft and being configured to cause at least a section of the at least one flexible portion of the shaft to

become more rigid when the at least one inflatable bladder is inflated” as recited in amended independent claim 11, or a retractor including, *inter alia*, a shaft having at least one flexible portion and “a plurality of inflatable bladders partially circumscribing an outer surface of the shaft” wherein at least one of the inflatable bladders is “disposed about the at least one flexible portion such that a section of the at least one flexible portion becomes more rigid upon inflation of the at least one inflatable bladder” as recited in amended independent claim 25. (Emphasis added). Including the cannula purportedly disclosed in Shihata fails to cure these deficiencies.

For at least these reasons, the applicant respectfully submits that Utsugi in view of Shihata fails to suggest each and every element of the retractors recited in amended independent claims 11 and 25, and therefore, that claims 11 and 25 are allowable over Utsugi in view of Shihata. Given the dependency of claims 12-15, 22-24, and 26-27 either directly or indirectly from claims 11 and 25, for at least the reasons set forth with respect to claims 11 and 25, the applicant respectfully submits that claims 12-15, 22-24, and 26-27 are also allowable over Utsugi in view of Shihata.

New claims 28 and 29 have been added herein for consideration and are of a scope to which the applicant believes he is entitled. For example, new independent claim 28 recites a retractor that includes, *inter alia*, a shaft and “a plurality of bladders at least partially circumscribing an outer surface of the shaft,” an element which is neither disclosed nor suggested by the references of record, as set forth above.

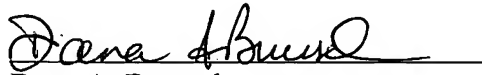
For at least this reason, the applicant respectfully submits that the references of record fail to disclose or suggest each and every element of the retractor recited in new independent claim 28, and therefore, that claim 28 is allowable over the references of record. Given the dependency of new claim 29 from claim 28, the applicant respectfully submits that claim 29 is

also allowable over the references of record.

In view of the foregoing, it is respectfully submitted that all claims presently pending in the application, namely claims 11-15 and 22-29, are in condition for allowance.

Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, the Examiner is respectfully requested to contact the applicant's undersigned attorney at the telephone number indicated below.

Respectfully submitted,

  
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